

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE: )  
 )  
VERNON TERRANCE SIMPSON ) CASE NO. 07-21421 JPK  
RODA SHARIE SIMPSON, ) Chapter 13  
 )  
Debtors. )

ORDER GRANTING AMENDED OBJECTION  
TO CLAIM NO. 2-1 ("AMENDED OBJECTION")

The Amended Objection, filed on October 6, 2008, limits its objection to the arrearage calculation which is asserted in the claim. Proper notice of the objection was provided to the claimant, and no timely objection or request for hearing with respect to the objection was filed.

There is a much larger problem with the claim. The evidence of indebtedness attached to it establishes an original loan in the amount of \$116,910.00, extended in January 2006. Attached to the claim is an "Exhibit A", which states that interest accruing from the last paid installment is in the amount of \$1,313,406.30, an absolutely impossible figure given the terms of the Note. The claim itself reflects "Exhibit A", by asserting that the allowed secured claim of the creditor is \$1,436.030.47.

The filing of a claim objection initiates a contested matter subject to Fed.R.Bankr.P. 9014. Fed.R.Bankr.P. 9014(c) incorporates into contested matters the provisions of Fed.R.Bankr.P. 7054, which then incorporates Fed.R.Civ.P. 54(c) into procedures applicable to contested matters. Fed.R.Civ.P. 54(c) states that a "judgment by default shall not be different in kind from . . . that prayed for in the demand for judgment", and thus in this matter the court cannot grant any relief apart from that requested in the objection, which is solely focused on the calculation of the arrearage stated in claim #2-1. Were the court able to do so, the court would deny the claim in its entirety.

IT IS ORDERED that the objection is sustained: the pre-petition arrearage to be provided for by the debtor's Chapter 13 plan with respect to the secured claim of America's Servicing shall be \$4,587.40.

Dated at Hammond, Indiana on November 20, 2008.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Debtors, Attorney for Debtors  
Trustee, US Trustee